

CHAPTER 19

ELECTION OFFENSE

Section

19-1 Classes of offenses

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19-3 Election frauds

19-3.5 Voter fraud

19-4 Penalties; disqualification for, removal from office;
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19-6 Misdemeanors

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Cross References

Campaign violation penalties, see §11-228.

§19-1 Classes of offenses. Except as otherwise provided, offenses against the election laws contained in this title are divided into two classes: "election frauds" and "misdemeanors". [L 1970, c 26, pt of §2]

§19-2 REPEALED. L 1974, c 34, §5(a).

§19-3 Election frauds. The following persons shall be deemed guilty of an election fraud:

(1) Every person who, directly or indirectly, personally or through another, gives, procures, or lends, or agrees or offers to give, procure, or lend, or who endeavors to

procure, any money or office or place of employment or valuable consideration to or for any elector, or to or for any person for an elector, or to or for any person in order to induce any elector to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, or who does any such act on account of any person having voted or refrained from voting for any particular person at any election;

(2) Every person who advances or pays, or causes to be paid, any money to, or to the use of, any other person, with the intent that the money, or any part thereof, shall be expended in bribery at any election, or for any purpose connected with or incidental to any election; or who knowingly pays or causes to be paid any money to any person in the discharge or repayment of any money wholly or partly expended in bribery at any election, or for any purpose connected with or incidental to any election;

(3) Every elector who, before, during or after any election, directly or indirectly, personally or through another, receives, agrees, or contracts for any money, gift, loan, or valuable consideration, office, place, or employment for oneself or any other person for voting or agreeing to vote, or for refraining to vote or agreeing to refrain from voting, or for voting or refraining to vote for any particular person or party;

(4) Every person who, directly or indirectly, personally or through another, makes use of, or threatens to make use of, any force, violence, or restraint; or inflicts or threatens to inflict any injury, damage, or loss in any manner, or in any way practices intimidation upon or against any person in order to induce or compel the person to vote or refrain from voting, or to vote or refrain from voting for any particular person or party, at any election, or on account of the person having voted or refrained from voting, or voted or refrained from voting for any particular person or party; or who by abduction, distress, or any device or contrivance impedes, prevents, or otherwise interferes with the free exercise of the elective franchise;

(5) Every person who, at any election, votes or attempts to vote in the name of any other person, living or dead, or in some fictitious name, or who, having once voted, votes or attempts to vote again, or knowingly gives or attempts to give more than one ballot for the same office at one time of voting;

(6) Every person who, before or during an election, knowingly publishes a false statement of the withdrawal of any candidate at the election;

(7) Every person who induces or procures any person to withdraw from being a candidate at an election in consideration of any payment or gift or valuable consideration; or of any threat; and every candidate who withdraws from being a candidate in pursuance of such inducement or procurement;

(8) Every public officer by law required to do or perform any act or thing with reference to any of the provisions in any law concerning elections who wilfully fails, neglects, or refuses to do or perform the same, or who is guilty of any wilful violation of any of the provisions thereof;

(9) Any person wilfully tampering or attempting to tamper with, disarrange, deface, or impair in any manner whatsoever, or destroy any voting machine while the same is in use at any election, or who, after the machine is locked in order to preserve the registration or record of any election made by the same, tampers or attempts to tamper with any voting machine; and

(10) Every person who, directly or indirectly, personally or through another, wilfully designs, alters, accesses, or programs any electronic voting system to cause the system to inaccurately record, tally, or report votes cast on the electronic voting system. [L 1970, c 26, pt of §2; gen ch 1985; am L 1989, c 88, §2; am L 2005, c 200, §2]

Case Notes

"Or who wilfully performs it in such a way as to hinder the objects thereof" in section void for vagueness. 67 H. 398, 688 P.2d 1152.

Preclearance under Voting Rights Act not prerequisite for enforcement of this section. 68 H. 516, 722 P.2d 453.

[§19-3.5] Voter fraud. The following persons shall be guilty of a class C felony:

(1) Any person who knowingly registers another person to vote when that person is not entitled to register to vote;

(2) Any person who knowingly votes when the person is not entitled to vote;

(3) Any person who knowingly takes an oath in this title prescribed or authorized by law and wilfully makes any false statement of fact while under oath therein; or

(4) Any person who wilfully makes a false answer to any question asked of the person while under oath in this title prescribed or authorized by law. [L 1990, c 115, §2]

§19-4 Penalties; disqualification for, removal from office; reports of convictions to chief election officer. Every person found guilty of an election fraud shall be fined not less than \$100 nor more than \$1,000, or imprisoned at hard labor not more than two years, or both. Besides the punishment, the person shall be disqualified from voting and from being elected to, holding or occupying any office, elective or appointive. If the person so convicted holds any office, either elective or appointive, at the time of the conviction, the office shall at once and without mention in the sentence or other proceeding be vacated by the conviction. The judge before whom the conviction is had

shall immediately transmit to the chief election officer and to the respective county clerks the name of the person, the offense of which the person has been convicted and the sentence of the court. [L 1970, c 26, pt of §2; am L 1970, c 188, §39; gen ch 1985]

Cross References

Classification of offense and authorized punishment, see §§701-107, 706-610(2), 640, 660.

§19-5 REPEALED. L 1975, c 146, §2(a).

§19-6 Misdemeanors. The following persons shall be guilty of a misdemeanor:

(1) Any person who offers any bribe or makes any promise of gain, or with knowledge of the same permits any person to offer any bribe or make any promise of gain for the person's benefit to any voter to induce the voter to sign a nomination paper, and any person who accepts any bribe or promise of gain of any kind as consideration for signing the same, whether the bribe or promise of gain be offered or accepted before or after the signing;

(2) Any person who wilfully tears down or destroys or defaces any election proclamation or any poster or notice or list of voters or visual aids or facsimile ballot, issued or posted by authority of law;

(3) Any person printing or duplicating or causing to be printed or duplicated any ballot, conforming as to the size, weight, shape, thickness, or color to the official ballot so that it could be cast or counted as an official ballot in an election;

(4) Every person who is disorderly or creates a disturbance whereby any meeting of the precinct officials or the board of registration of voters during an election is disturbed or interfered with; or whereby any person who intends to be lawfully present at any meeting or election is prevented from attending; or who causes any disturbance at any election; and every person assisting or aiding or abetting any disturbance;

(5) Every person who, either in person or through another, in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any meeting of the board of registration of voters, or in any manner breaks up or prevents, or endeavors to break up or prevent, the holding of any election;

(6) Any person, other than those designated by section 11-132, who remains or loiters within the area set aside for voting as set forth in section 11-132 during the time appointed for voting;

(7) Any person, including candidates carrying on any campaign activities within the area described in section 11-132 during the period of time starting one hour before the polling place opens and ending when the polling place closes for the purpose of influencing votes. Campaign activities shall include the following:

(A) Any distribution, circulation, carrying, holding, posting, or staking of campaign cards, pamphlets, posters and other literature;

(B) The use of public address systems and other public communication media;

(C) The use of motor caravans or parades; and

(D) The use of entertainment troupes or the free distribution of goods and services;

(8) Any person who opens a return envelope containing an absentee ballot voted under chapter 15 other than those authorized to do so under chapter 15;

(9) Any unauthorized person found in possession of any voting machine or keys thereof;

(10) Every person who wilfully violates or fails to obey any of the provisions of law, punishment for which is not otherwise in this chapter specially provided for. [L 1970, c 26, pt of §2; am L 1973, c 217, §8; am L 1974, c 34, §5(b); am L 1975, c 36, §6 and c 146, §2(b); am L 1976, c 106, §5; am L 1980, c 264, §7; am L 1989, c 121, §2; am L 1990, c 115, §3]

Attorney General Opinions

Precludes "exit polling" within a polling place and within a thousand-foot radius thereof. Att. Gen. Op. 84-4.

Case Notes

Par. 7: Activity of poll watchers in recording names of those who have voted is not proscribed by section; constitutionality of section questioned but not decided. 54 H. 254, 506 P.2d 13.

§§19-7 to 9 REPEALED. L 1998, c 236, §§2 to 4.